

**UNITED STATES BANKRUPTCY COURT
DISTRICT OF NEW JERSEY**

**:
CERTIFICATION OF
COUNSEL**

KENNETH ROSELLINI, ESQ. (6047) :
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Pro Se :

In Re:

Case No.: 17-00110-MBK

Kenneth J. Rosellini :
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I, **KENNETH ROSELLINI**, do hereby certify the following in lieu of oath or affidavit:

1. I am the Defendant in the above-captioned matter.
2. I make this Certification in Response to the Order to Show Cause issued in the above-captioned action as to why sanctions should not be imposed for failure to file a list of creditors as required by Fed.R.Bankr.P. 1007(a)(1).
3. My understanding of the procedure in the United States Bankruptcy Court for the District of New Jersey for compliance with Fed.R.Bankr.P. 1007(a)(1) had been that uploading creditors via ECF, which creates a PDF when a Query is run on Pacer for List of Creditors, satisfied the requirements of the rule based on both bankruptcy practice and the prior instructions of the Bankruptcy Court Clerk regarding the requirements for a petition to be accepted as filed.
4. As no substantive change to Fed.R.Bankr.P. 1007(a)(1) was made in the December 2016 publication of the Federal Rules of Bankruptcy Procedure, I was not aware that the United States Bankruptcy Court for the District of New Jersey had altered its procedures, and I received no communication from the Bankruptcy Court or anyone else that the bankruptcies

which are listed in the Order to Show Cause were deficient, until I received the Order to Show Cause itself.

5. Other than the case of *In re Hubert Ferris*, Case No.: 17-31686-JKS, in which I inadvertently failed to upload the creditor information via ECF until day after the filing of the petition, all of the subject bankruptcies included uploaded creditor information via ECF on the day the petitions were filed.

6. As of today's date, I have uploaded a List of Creditors as a PDF in each of the cases listed on the Order to Show Cause set forth *infra*.

7. *In re Hubert Ferris*, Case No.: 17-31686-JKS, on October 27, 2017 a Creditor was uploaded by way of ECF and on November 14, 2017 a List of Creditors was filed.

8. *In re Carolyn Delafrange*, Case No.: 17-30816-JKS, full schedules, including List of Creditors, was filed on November 8, 2017.

9. *In re Jean Forty-Munier*, Case No.: 17-30511-JKS, full schedules, including List of Creditors, was filed on November 9, 2017.

10. *In re Kisha Lantigua*, Case No.: 17-30309-RG, on November 14, 2017 a List of Creditors was filed.

11. *In re Jose R. Ferreras*, Case No.: 17-30308-SLM, on November 14, 2017 a List of Creditors was filed.

12. *In re Sandra Marega*, Case No.: 17-30153-ABA , full schedules, including List of Creditors, was filed on November 2, 2017.

13. *In re Gilbert Haggar*, Case No.: 17-29664-VFP, full schedules, including List of Creditors, was filed on October 31, 2017.

14. *In re Olga Elias*, Case No.: 17-29279-RG, on November 14, 2017 a List of

Creditors was filed.

15. *In re Kenia Paulino*, Case No.: 17-29272-JKS, on November 14, 2017 a List of Creditors was filed.

16. *In re Edith Jativa*, Case No.: 17-28963-RG, on November 14, 2017 a List of Creditors was filed.

17. *In re Antonio Castillo*, Case No.: 17-28872-KCF, full schedules, including List of Creditors, was filed on October 13, 2017 (which was before the subject Order to Show Cause was filed).

18. *In re Nart Abida*, Case No.: 17-28470-RG, on November 14, 2017 a List of Creditors was filed.

19. *In re Isabel Garcia*, Case No.: 17-27564-MBK, on November 14, 2017 a List of Creditors was filed.

20. *In re Carlos Oquendo*, Case No.: 17-27011, on November 14, 2017 a List of Creditors was filed.

21. As the Order to Show Cause did not cite a rule or statute under which the Court is proceeding regarding imposition of sanctions, I understand the Court to be proceeding under its inherent authority.

22. The basis for sanctioning an attorney under the Court's inherent authority is as follows:

In addition to the sanctioning authority expressly conferred by statutes and court rules, the federal courts "possess certain 'inherent powers ... to manage their own affairs so as to achieve the orderly and expeditious disposition of cases,' " *Goodyear Tire & Rubber Co. v. Haeger*, 137 S. Ct. 1178, 1186 (2017) (quoting *Link v. Wabash R.R. Co.*, 370 U.S. 626, 630-31 (1962)), including "the ability to fashion an appropriate sanction for conduct which abuses the judicial process," *id.* (quoting *Chambers v. NASCO, Inc.*, 501 U.S. 32, 44-45 (1991)); *see also Chambers*, 501 U.S. at 45-46 (holding a federal court has

inherent power to assess attorney's fees when a party "has acted in bad faith, vexatiously, wantonly, or for oppressive reasons" or "shows bad faith by delaying or disrupting the litigation or by hampering enforcement of a court order" (internal quotation marks and citations omitted)).

See Klein v. Weidner, No. CV 08-3798, 2017 WL 2834260, at *3 (E.D. Pa. June 30, 2017).

23. As set forth *supra*, I did not act in bad faith, vexatiously, wantonly, or for oppressive reasons, and did not show bad faith by delaying or disrupting litigation or enforcement of a court order.

24. I reasonably understood that I was complying with Fed.R.Bankr.P. 1007(a)(1) based on both bankruptcy practice and the prior instructions of the Bankruptcy Court Clerk regarding the requirements for a petition to be accepted as filed.

25. When I was notified that my filing procedures were not considered by Bankruptcy Court to be in compliance with Fed.R.Bankr.P. 1007(a)(1), I contact the Bankruptcy Court Clerk to inquire as to the required ECF filing procedure, and, once informed of the procedure, took corrective action within a reasonable time to cure the deficiencies.

26. For the aforementioned reasons, I respectfully submit that I have demonstrated cause why an order should not issue for sanctions in this matter.

I certify that the foregoing statements made by me are true. I am aware that if any of the foregoing statements made by me are willfully false, I am subject to punishment.

/s/ Kenneth Rosellini

November 14, 2017

Kenneth Rosellini, Esq.